

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA	:	
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	:	S1 17-CR-722 (VSB)
-against-	:	
	:	<u>ORDER</u>
	:	
SAYFULLO HABIBULLAEVIC SAIPOV,	:	
	:	
Defendant.	:	
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VERNON S. BRODERICK, United States District Judge:

On May 15, 2023¹, Defendant filed his objections to the Presentence Report, which included a request for a provision in the judgment to ensure that under the Inmate Financial Responsibility Plan (“IFRP”), which dictates Saipov’s installment payments towards his restitution, Saipov’s funds would not be less than \$100 per month to allow adequate funds for his commissary and to maintain contact with his SAMs-approved family members. (Doc. 801 at 3–4.) The Government objected to this request because Bureau of Prisons (“BOP”) regulations already exclude \$75 per month from the inmate’s financial assessments, and in addition, inmates currently do not need to pay for domestic or international calls. (Doc. 795 at 2.) Instead, the Government proposed language for the judgment, which reads “While incarcerated, Sayfullo Saipov shall make installment payments toward his restitution and mandatory assessment obligations pursuant to the Bureau of Prisons [IFRP].” (*Id.* at 2.)

During sentencing, the Defense argued that there was currently no charge for calls strictly

¹ Defendant initially emailed these objections to my Chambers and then filed them on the docket on May 23, 2023. (Doc. 801.)


as a “COVID period accommodation” and asserted “it’s about to end.” (Tr.² 9:11-16.) In addition, the Defense referenced a rule change proposed by the BOP in January 2023 that would shift to a percentage calculation of an inmate’s income rather than a fixed \$75 amount. (See Tr. 9:17-22.) The Government indicated that it was not aware of any plans to begin to charge for calls and saw no reason why Saipov should “receive special treatment.” (Tr. 10:19-23.) I ordered the parties to substantiate their claims in supplemental filings and provide any information regarding whether the \$75 floor currently in place is subject to change. (Tr. 12:8-11.) The Government filed its supplemental letter on May 19, 2023, stating that it “conferred [] with ADX, which advise[d] that there are presently no plans to have inmates at ADX resume paying for their phone calls.” (Doc. 799.) In addition, the Government provided details regarding the BOP amendment proposed on January 10, 2023, which would remove the \$75 monthly exclusion and instead set aside a percentage of the inmate’s income for restitution and other financial assessments. (Doc. 799 (citing Inmate Financial Responsibility: Procedures, 88 Fed. Reg. 1331 (proposed Jan. 10, 2023).) On May 23, 2023, the Defense filed its supplemental support for the commissary request. (Doc. 802.) The Defense reiterated that they “heard unofficially that call-charging is set to resume at ADX” and argued that the proposed \$100 minimum is “necessary for Mr. Saipov’s most basic well-being” and is not a special financial benefit but rather an “individualized assessment” of his circumstances, which includes the fact that the majority of his SAMs-approved family members live overseas. (*Id.* at 1–2.) On May 29, 2023, the Defense submitted a second supplemental letter “to inform the Court that the Bureau of Prisons announced last week that the COVID-era policy of free telephone calls for inmates”

² “Tr.” refers to the sentencing transcript from May 17, 2023.

“will no longer be available effective June 20, 2023.” (Doc. 803 (citing BOP Website, https://www.bop.gov/resources/news/20230523_first_step_act_phone_incentives.jsp, dated May 23, 2023).) The Government filed a response letter on June 8, 2023, stating that “calls are, in fact, still free at United States Penitentiary Florence – Administrative Maximum Facility (“ADX”), and at whatever time ADX resumes charging for calls, the defendant will have the opportunity to earn phone minutes through the First Step Act (“FSA”) incentive program.” (Doc. 804 at 1.) The Defense challenged the assertion that Mr. Saipov would be able to participate in any incentive program given the Special Administrative Measures in place and continued to argue that granting Mr. Saipov \$100 per month in commissary funds would not constitute special treatment, and failure to do so would be a detriment to his family. (Doc. 805 at 1, 2 n.3.) Having reviewed the parties’ pre-sentencing submissions, considered the parties’ arguments during sentencing, and reviewed their supplemental submissions, it is hereby

ORDERED that Defendant’s request for a minimum commissary amount of \$100 per month is DENIED. The Judgment will follow the Inmate Financial Responsibility Plan of the Bureau of Prisons and include the Government’s proposed language from docket entry 795.
SO ORDERED.

Dated: June 27, 2023
New York, New York


Vernon S. Broderick
United States District Judge